

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|---------------------------|---|------------------------------------|
| UNITED STATES OF AMERICA, |) | CASE NO. 4:09CR94 |
| |) | |
| |) | JUDGE PETER C. ECONOMUS |
| Plaintiff, |) | Magistrate Judge George J. Limbert |
| |) | |
| v. |) | |
| |) | |
| DUANE R. BOLK, |) | <u>REPORT AND RECOMMENDATION</u> |
| |) | <u>OF MAGISTRATE JUDGE</u> |
| |) | |
| Defendant. |) | |

Pursuant to General Order 99-49, this case was referred to United States Magistrate Judge George J. Limbert for the purposes of receiving, on consent of the parties, Defendant's offer of a plea of guilty, conducting the colloquy prescribed by Fed. R. Crim. P. 11, causing a verbatim record of the proceedings to be prepared, referring the matter for presentence investigation, and submitting a Magistrate Judge's Report and Recommendation stating whether the plea should be accepted and a finding of guilty entered. The following, along with the transcript or other record of the proceedings submitted herewith, constitutes the Magistrate Judge's Report and Recommendation concerning the plea of guilty proffered by Defendant.

1. On April 8, 2009, Defendant Duane R. Bolk, accompanied by Attorney Sarah Thomas Kovoov, waived his right to prosecution by indictment and consented to proceeding by information.

2. Defendant Bolk then proffered a plea of guilty to Counts 1 and 2 in the information filed on March 2, 2009. ECF Dkt. #1.

3. Prior to such proffer, Defendant Bolk was examined as to his competency, advised of the charges and consequences of conviction, informed that the Court will be required to give consideration to the Federal Sentencing Guidelines and of the possibility of a departure from the Guidelines, notified of his rights, advised that he was waiving all of his rights except the right to counsel, and, if such were the case, his right to appeal, and otherwise provided with the information prescribed in Fed. Crim. R. 11.

4. The undersigned was advised that no commitments or promises have been made by any party, and no agreements, written or unwritten, have been made between the parties.

5. The undersigned questioned Defendant Bolk under oath about the knowing, intelligent and voluntary nature of the plea of guilty, and the undersigned believes that Defendant Bolk's plea was offered knowingly, intelligently, and voluntarily.

6. The parties provided the undersigned with sufficient information about the charged offenses and Defendant Bolk's conduct to establish a factual basis for the plea.

In light of the foregoing, and the record submitted herewith, the undersigned concludes that Defendant Bolk's plea was knowing, intelligent, and voluntary and all requirements imposed by the United States Constitution and Fed. R. Crim. P. 11 have been satisfied. Accordingly, the

undersigned recommends that the plea of guilty be accepted and a finding of guilty be entered by the Court.

Date: April 8, 2009

/s/George J. Limbert
George J. Limbert
United States Magistrate Judge

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within ten (10) days of service of this notice. Failure to file objections within the specified time WAIVES the right to appeal the Magistrate Judge's recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).